

REMARKS

By this Amendment, claims 1 and 3 have been amended and claim 18 has been canceled without prejudice or disclaimer. No new matter is added. Accordingly, claims 1-17 are now pending in the present application.

Claims 5-12 and 18 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

I. Claim Objections

Claim 1 is objected to because of informalities. Applicants respectfully request the Examiner to withdraw this objection in view of the self-explanatory claim amendments made herein.

Also, claim 18 is objected to under 37 C.F.R. 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 18 has been canceled. Therefore, the rejection is moot.

II. Claim Rejections - 35 U.S.C. § 112

Claims 3 and 13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully request the Examiner to withdraw this rejection in view of the self-explanatory claim amendments made herein.

III. Double Patenting

Claims 1-4 and 13-17 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3-6, 9-11 and 16 of copending Application No. 12/293,478.

Applicants note that if a “provisional” nonstatutory obviousness-type double patenting rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the Examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. MPEP 804.

Applicants believe that the claim objection and rejections under § 112 will be overcome by this Amendment, and thus, the double patenting rejection will be the only rejection remaining. Since the present application was filed before Application No. 12/293,478, Applicants respectfully request the Examiner to withdraw the double patenting rejection.

IV. Allowable Subject Matter

Claims 5-12 and 18 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. Applicants appreciate the Examiner indicating that claims 5-12 and 18 contain allowable subject matter, but do not believe rewriting these claims in independent form is necessary since all of the above-identified objections/rejections should be overcome by this Amendment.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116
Application No.: 10/578,407

Attorney Docket No.: Q94567

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Ryan F. Heavener/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Ryan F. Heavener
Registration No. 61,512

Date: April 23, 2010